

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

EVERGREEN HEALTH COOPERATIVE, )  
INC., )

Plaintiff, )

v. )

No. 1:16-cv-02039- GLR

UNITED STATES DEPARTMENT OF )  
HEALTH AND HUMAN SERVICES )  
*et al.*, )

Defendants. )

**DEFENDANTS' MOTION TO DISMISS COUNTS II AND III OF THE  
COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION AND  
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

The government respectfully moves to dismiss Count II of Plaintiff's Complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) or, in the alternative, for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). The government also respectfully moves to dismiss Count III of Plaintiff's Complaint for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). The bases for this motion are set forth in the accompanying memorandum of points and authorities.

Dated: August 15, 2016

Respectfully submitted,

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Principal Deputy Assistant Attorney General

ROD J. ROSENSTEIN  
United States Attorney

JOEL McELVAIN  
Assistant Branch Director  
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/s/ Matthew J.B. Lawrence  
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Attorneys for Defendant

Certificate of Service

I hereby certify that on the 15th day of August, 2016, I caused the forgoing Motion to be served on counsel for plaintiff by filing with the court's electronic case filing system.

/s/ Matthew J.B. Lawrence

Matthew J.B. Lawrence

Notice of Courtesy Copy

I hereby certify that on the 16th day of August, 2016, I will send a courtesy copy of the foregoing to Chambers by overnight mail.

/s/ Matthew J.B. Lawrence

Matthew J.B. Lawrence